



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title):

- **WAC 458-40-626 – Timber excise tax – Tax liability -- Private timber, tax due when timber harvested.**
- **WAC 458-40-628 – Timber excise tax – Tax liability -- Public timber, lump sum and scale sales.**
- **WAC 458-40-690 – Timber excise tax – Credit for property tax.**

Date last adopted: **December 1, 2000**

Reviewer: **Ed Ratcliffe**

Date review completed: **May 1, 2003**

Is this document being reviewed at this time because of a taxpayer or business association request? (If “YES”, provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document:

- **WAC 458-40-626 informs the taxpayer when to file returns for harvests of privately owned timber. It also explains the distinction between the taxable harvest activities for the commercial use of timber and the nontaxable harvest of timber for personal use.**
- **WAC 458-40-628 informs the taxpayer when to file returns and pay the timber excise taxes on harvests of public timber.**
- **WAC 458-40-690 explains how a taxpayer may claim a credit, or obtain a refund, for property taxes paid upon harvested public timber.**

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
X		Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)



X	Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens? (If the response is "no", the recommendation must be to repeal the document.)
----------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Please explain. **These rules are necessary to explain to taxpayers harvesting timber about their tax liability. In particular, the discussion in WAC 458-40-626 about the private use of harvested timber is necessary as the definitions of "Harvester" and "Small harvester" in RCW 84.33.035 only describe the taxable activity in terms of cutting timber for sale or for commercial or industrial use.**

A recent statutory change that allows ten percent of the Department of Natural Resources public timber to be cut and sold by that agency should be added to the explanation of reporting and payment instructions in WAC 458-40-628. See, 2SSB 5074 (2003).

The department should also consider adding to the rules a discussion of the timber harvest tax credit added as RCW 84.33.0775 in 1999.

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete

Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this ancillary document be incorporated into a rule?
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?



If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain. **These rules were revised in 2000. The rules are clear and effective as written. The public timber rule needs to be revised for a recent change in the law enacted in the last month. 2SSB 5074. As remarked upon in the previous review, the timber harvest tax credit, RCW 84.33.0775, also needs to be incorporated into the rules. Chapter 1, Laws of 1999, sp.s. (ESHB 2091).**

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?

Please explain. **RCW 82.33.096 provides for the administrative provisions of chapter 82.32 RCW, including general rulemaking authority under RCW 82.32.300, to apply to timber excise taxes. RCW 82.01.060(2) also provides the department with rulemaking authority.**



6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain. **No other agency is responsible for taxing the value of standing timber harvested from Washington forest land. However, several local, state, and federal agencies engage in managing and selling standing timber. The department continues to work with these state and federal agencies to reduce or eliminate any duplication or inconsistencies that may result from the department and taxpayer's interaction with these agencies.**

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer "yes" only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain. **The information provided in the rules offer procedural and interpretative guidance.**

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain. **The rules provide accurate information for reporting timber excise taxes that allows for fair treatment for all harvesters.**

9. LISTING OF DOCUMENTS REVIEWED: (Use "bullets" with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)



Statute(s) Implemented:

- RCW 84.33.035 (Definitions)**
- RCW 84.33.074 (Escise tax on harvesters of timber--Calculation of tax by small harvesters--Election--Filing form.**
- RCW 84.33.077 (Credit for property taxes paid on timber on public land.)**
- RCW 84.33.0775 (Timber harvest tax credit.)**
- RCW 84.33.091 (Tables of stumpage values--Revised tables--Legislative review--Appeal.)**

Ancillary Documents (i.e., ETAs, PTBs, and ADs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

- **Det. 85-259A, 1 WTD 173 (1986)(Harvester may not use new conversion methods approved by rule for previous periods to determine volume.)**
- **Det. 91-092, 11 WTD 119 (1991)(Timber excise tax is an excise tax and not an ad valorem tax.)**
- **Det. 92-070, 12 WTD 127 (1993)(Cost of public timber includes cost of constructing public road on land.)**
- **Det. 98-059, 17 WTD 194 (1998)(Cannot tie personal property tax credit to sale of only that stand of timber subject to the personal property tax.)**
- **Det. 99-172, 19 WTD 277 (2000) (Adoption of small logs category in stumpage value tables could not be used retroactively for previous reporting periods)**
- **Det. 99-309, 19 WTD 509 (2000)(Small harvester could not deduct labor costs for self without evidence of these costs.)**

Attorney General's Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

10. Review Recommendation:

☒ Amend **WAC 458-40-628**

☐ Repeal

☒ Leave as is

☐ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

☐ Incorporate ancillary document into a new or existing rule. (Subject of this review must an ancillary document and not a rule.)



Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.) **The recommendation is to revise WAC 458-40-628 to address statutory changes for determining the timber excise tax on public timber sales. Information regarding the timber harvest excise tax credit should also be incorporated into this chapter.**

11. Manager action: Date: 6/4/03

AL Reviewed and accepted recommendation

Amendment priority:

 1
 2
 X 3
 4